

### **REMARKS**

Claims 2-5, 8-10 and 17-19 were pending in the case at the time of the Office Action, with claims 4 and 5 withdrawn from consideration. Claims 1, 6, 7 and 11-16 were previously cancelled. Claims 17 and 18 are amended above.

#### **Claim amendments**

Previously, applicant amended Claim 17 to change the language regarding an inverted frustocone to "a raised portion with angled sidewalls that cooperate with bone in-growth." However, applicant failed to make the same change in claim 18, and the examiner has properly noted that the remaining reference to the inverted frustocone in claim 18 lacks antecedent basis. No new matter is presented in the amendment to claim 18.

Applicant currently amends claim 17 to add a further limitation regarding the angled sidewalls of the raised portion. Specifically, the angled sidewalls are required to "taper in the direction towards the base component". Support for this amendment is found at page 5, lines 7-9, of the specification as filed, as well as in Fig 15.

#### **Restriction requirement**

The Examiner is reminded that claims 4 and 5 are entitled to rejoinder if claim 17 is determined to be allowable, as claim 17 would then be generic. These claims were withdrawn from consideration due to an election of species by the prior attorney for applicant in June 2006.

#### **Rejections under 35 USC 112**

The Examiner's rejections under 35 USC 112 (as well as the objections to the specification) are believed to be fully addressed by the amendments made above to the claims, without amendment to the specification or drawings.

#### **Rejections under 35 USC 103**

The Examiner has not repeated the rejection of claims 2, 3, 8, 10 and 17 as obvious over the combination of Mazda '100 with US Patent 6,994,727 to Khandkar, so it is believed to be overcome.

The Examiner has also not repeated the rejections of claims 2, 3, 8, 9 and 17 as obvious over Boyd '773 in combination with Khandkar '727, so it is believed to be overcome.

Now, the Examiner has substituted US Patent 6,669,732 to Serhan ("Serhan '732") for Khandkar '727 and included claims 9, 17 and 18, while dropping claim 10. Applicant respectfully traverses the rejection.

The Examiner's position is that the two references together provide all limitations of claim 17, with Mazda '100 providing the sharpened teeth and Serhan '732 providing the raised portion with angled sidewalls. First, applicant traverses the Examiner's position that Serhan '732 teaches "angled sidewalls." The only reference to the sidewalls, which are denominated as 70, 170 in Serhan '732, speaks of each of the sidewalls as a "side surface." Col. 4, line 30 and Col. 7, line 12. Applicant notes that Serhan '732 makes a particular point of the fact that the top surfaces 72, 172 are "inclined at a small angle" to the second surface above which they are situated. Col. 4, lines 29-41 and Col. 7, lines 12-23 (both of which have almost identical wording). However, there is no express teaching that the side surfaces are angled in any manner. In fact, it is applicant's position that Serhan '732's express teaching of a porous coating, as noted by the Examiner, is indicative of Serhan's reliance upon the porous coating to promote bone ingrowth, rather than angled sidewalls. As now amended, claim 17 recites "angled sidewalls" that "taper in the direction towards the base component."

The Supreme Court has made it clear in *KSR v. Teleflex* that "articulated reasoning with some rational underpinning" is required to support the legal conclusion of obviousness. It is the applicant's position that the Examiner's combination not only lacks angled sidewalls, but that the express teaching of a coating to encourage bone ingrowth does not make the applicant's inwardly angled sidewalls a variation that yields a predictable result. This would seem to be particularly true in the area of medical implants, where slight variations are often determined to be non-obvious.

The Examiner rejects claim 10 as obvious over Mazda '100, Serhan '732 and Khandkar '727. Applicant traverses, on the basis that Khandkar '727 does not provide the missing element of angled sidewalls that taper inwardly, so the combined references do not meet each and every element of claim 17.

The Examiner rejects claim 19 as obvious over Mazda '100 and Serhan '732 as applied to claim 18, with the further teaching of US published application 2001/032017

to Alfaro ("Alfaro '017"). Applicant traverses, because Alfaro '017 does not provide the missing element of the inwardly-angled sidewalls.

The Examiner also rejects claims 2, 3, 8, 9 and 17 as obvious over Boyd '773 in combination with Khandkar '727.

In each of the above rejections, the Examiner relies upon Khandkar '727 as teaching frustoconical teeth 16. While these teeth in Khandkar '727 may correspond to the "sharpened teeth" in claim 17, none of the references show any structure that corresponds to the "raised portion with angled sidewalls that cooperate with bone in-growth" as now claimed in claim 17, and particularly, none of the references show where "the raised portion comprises a pair of concentric raised circular portions" as now required in claim 19.

Accordingly, the limitations of claims 17 and 19 are not met by the references in total, so these claims (as well as all dependents, including withdrawn claims 4 and 5) are allowable.

#### Conclusion

The Applicant respectfully submits that the present application is now in condition for allowance and such action is earnestly requested.

Respectfully submitted,

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By: /Stephen L. Grant, Reg. No. 33390/  
Stephen L. Grant, Reg. No. 33,390  
Standley Law Group LLP  
495 Metro Place South, Suite 210  
Dublin, Ohio 43017-5315  
Telephone: (614) 792-5555  
Facsimile: (614) 792-5536